

FILE COPY

Office Supreme Court, U.
FILED

MAY 29 1920

JAMES D. BAKER

CLERK

No 868 367

**IN THE
Supreme Court of the United States**

OCTOBER TERM, 1919

R. R. KENNINGTON, ET AL

V.

A. MITCHELL PALMER, ET AL

MOTION TO ADVANCE

MARCELLUS GREEN,

GARNER W. GREEN,

WM. H. WATKINS,

Attorneys for Plaintiffs in Error.

WILLIAM D. BAKER, CLERK.

IN THE
Supreme Court of the United States

OCTOBER TERM, 1919.

R. E. KENNINGTON, ET AL

v.

A. MITCHELL PALMER, ET AL.

MOTION TO ADVANCE

MARCELLUS GREEN,

GARNER W. GREEN,

WM. H. WATKINS,

Attorneys for Plaintiffs in Error.

Come appellants, by solicitors and move the Court to advance this cause for hearing at the earliest time compatible with the other business of the Court, and for grounds thereof assigns:

(1) This appeal is from a final decree of the District Court of the United States, for the Jackson Division of the Southern District of Mississippi, under Section 268 of the Judicial Code, direct to this Court, involving the constitutionality of that certain act, passed and approved upon the 10th day of August, 1917, and the Amendment thereof passed and approved upon the 22nd day of October, 1919, commonly called the Lever Bill, whereunder Congress sought to assume power to fix the price of divers commodities, among others, wearing apparel, and the Act is alleged to be in contravention of

divers provisions of the Federal Constitution, more fully set forth in said Bill. That the Act is sought to be enforced to the great detriment of complainants and under its terms there is sought to be imposed upon them certain onerous and unlawful burdens with reference to their private property, contrary to the provisions of the Constitution as in said bill more at large set forth, wherefor to save prolixity, reference is hereby made.

(2) That the said Act and its said Amendments are assumed to have a direct bearing upon the present high cost of living and in virtue of their alleged terms, it is sought by the defendants herein to exappropriate the property of complainants by prescribing the terms upon which said property, so owned may be sold, in virtue of the constitutional rights of the Complainants, as will more at length appear by reference to the said bill, wherefor to save prolixity reference is hereby made.

(3) That divers other questions of great importance are involved in said suit, involving the public welfare and the rights of Federal Officials, the determination whereof is requisite and proper at the earliest possible time; there being now, by reason of no controlling decision by this Court great contrariety of judicial decision among the District Courts as to the validity of said act under the Constitution, and if valid, what are the correct delineation of the powers and authorities thereunder conferred, there being as to these likewise great contrariety, it being held by some Courts of Districts that said act is so vague as not to be enforceable.

(3) That proceeding under said act, if constitutional, and capable of enforcement, the Federal Officials, as shown by the said bill, wherefor reference to the bill is made to save prolixity, have fixed divers lists whereat commodities, especially wearing apparel, shall be sold, and the limits and prices are so diverse and conflicting that there is no uniformity of interpretation and there is

great confusion which undermines the respect wherefor the law should be held.

(4) That all of these questions, are set forth in said bill, showing that said act, and its said amendment, are:

(a) Unconstitutional, or if not;

(b) Unenforceable, because vague and uncertain, or if not;

(c) Wrongfully, divers Federal Officials have assumed jurisdiction over matters wherever they have no power and with reference to which their acts are wrongful and are constituting irreparable damage to these complainants and appellants.

(5) That large penalties are imposed for violation of said Acts, if the same are valid and capable of being enforced, which ought not to be imposed before these questions are settled.

(6) That due notice of the filing of this motion was given the Hon. Solicitor General of the United States and there is no objection upon the part of the Government to having this case advanced so that all of the phases of this question may be presented at a hearing whereat all matters can be brought out at one time—the Government having moved to advance certain case wherein the said Act was held unconstitutional.

(7) That the District Attorney of the State of Mississippi and the Fair Price Commissioner of the said State, as well as the other defendants interpret said statute and the divers regulations as being valid and prosecutions will be had for each disobedience until an authoritative decision by this Court as to said several points is made.

(8) That said question is of great public interest and importance and upon its correct decision vast activities of the Government of the United States depend.

(9) That its present enforcement, if unlawful, is involving large expense to the United States which should not be paid out if the contentions of the complainants are correct.

Wherefore, complainants and each of them move the Court that this cause be advanced upon the docket and

assigned for hearing at the time of the hearing of the other cases involving similar questions, wherefore etc.

Marsellus Green,
Forner W. Green,
Wm. A. Hattens.

Attorneys for Plaintiffs in Error

We hereby certify that a copy of the foregoing motion was sent by registered mail to the Hon. Solicitor General of the United States, Washington, D. C., in pursuance of prior direction upon his part so to send the same.

Sworn to and subscribed before me this ²⁷...day of May, 1920.

.....
R. Hozer Jr.
Notary Public